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10/529,701	03/29/2005	David R. Wardwell	20020019PCT-US	2061

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EXAMINER
CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 December 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1> This action is in response to Applicant's amendment, filed 12.13.2007. Claims 1-5 and 8-12 are amended. Claims 1-12 are presented for further examination.

2> This is a final rejection.

Response to Arguments

3> Applicant has amended the independent claims with new limitations. The dependent claims have been cosmetically amended to address minor informalities. Applicant also argues that the Mann reference fails to disclose inserting packets into a software container according to user predetermined rules. Applicant's amendments and arguments have been fully considered but they are not persuasive.

Applicant's first amendment adds the limitation of receiving a "plurality of sets of data packets" from a plurality of nodes "physically separated from each other." Mann discloses this new limitation. As noted by Applicant, Mann disclosed receiving a plurality of packets from multiple different sessions. Each of these sessions corresponds to different nodes [column 1 «lines 19-22 and 45-48»]. It would have been obvious to one of ordinary skill in the art that the different nodes would be implemented physically separate from each other.

Applicant also amends the independent claims to recite protecting the software container against incomplete groups according to a grouping criteria. This amendment also does not overcome the Mann reference. Specifically, Mann discloses that all packets contain a sequence number which identify the position of a packet within a grouping [column 6

«lines 39-46»]. It would have been obvious to one of ordinary skill in the art that sequence numbers ensure that all packets within a grouping are received prior to transmitting the group.

Finally, Applicant argues that Mann fails to disclose inserting packets into a software container according to user predetermined rule. Applicant's argument focuses on Mann's teaching of a packet queue which can be implemented according to FIFO principles. Applicant argues that Mann's FIFO does not read on "user-predetermined rules." Applicant's argument is not persuasive because Mann's FIFO was not relied upon to teach "user-predetermined rules." Mann teaches several methods for classifying packets into a "logical order" as required in the claim. These methods include a "classification ID" [column 3 «lines 49-56»] or a packet bundle descriptor [column 3 «lines 57-67»]. While not explicitly states, it would have been obvious to one of ordinary skill in the art that an administrator would be able to decide which of these classification methods would be used to classify the packets.

Applicant asserts that Mann's FIFO structure "will not work with the claimed invention because different sets of data packets from different non-synchronous compute nodes arrive at different times." Applicant concludes that such a limitation would preclude the need for "locating common groups of said data packets" within the container. However, Mann's teaching expressly contradicts Applicant's arguments. Mann discloses a "look-ahead" feature that re-orders received packets within the queue [column 4 «lines 43-49» | column 5 «lines 23-28»]. The packets within the queue are re-arranged, for example, according to a session number. Therefore, Applicant's arguments as this point are also not persuasive.

For the foregoing reasons, Applicant's amendment does not overcome the Mann reference. Applicant's arguments also have been considered but are not persuasive. Thus, the rejection set forth in the previous Office action are maintained.

Specification

4>   The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claims 9-12 have been amended to recite a "computer storage medium" to overcome the §101 rejection. This term is not described or defined in Applicant's specification. Applicant's specification does discuss statutory subject matter in the form of "recordable type media" directed to floppy disks or CD-ROM. Therefore, one possible amendment would be to use "recordable type media."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5>   Claims 1, 5, and 9 are rejected under 35 U.S.C §103(a) as being unpatentable over Mann et al, U.S Patent NO. 6.957.281 ["Mann"].

6>   As to claim 1, Mann discloses a method for collating data in a distributed computer network having non-synchronous compute nodes, said method comprising:

receiving a plurality of sets of data packets from a plurality of non-synchronous compute nodes physically separated from each other, wherein each of said set of data packets is provided by one of said non-synchronous compute nodes [Figure 1 «item 210» | column 1 «lines 45-60» | column 4 «lines 52-60» where : Mann discloses receiving packets of different sessions at the controller, each session representing communications with a different network node | also see the Response to arguments above];

inserting said data packets into a software container according to user predetermined rules for determining a logical order for said data packets [column 3 «lines 6-9 and 41-48» | column 4 «lines 30-51» | column 5 «lines 18-28» where : Mann's queue is analogous to the claimed software container];

locating common groups of said data packets within said software container according to said user predetermined rules [column 3 «lines 41-48» where : Mann discloses grouping packets based on common session numbers];

protecting said software container against incomplete groups of said data packets due to system anomalies or quality of service within said distributed computer network according to a grouping criteria [column 5 «lines 18-28» | column 6 «lines 39-46» where : Mann discloses using sequence numbers to order the packets. Sequence numbers are well known in the art to help determine whether there are missing packets within the sequence of packets of a session]; and

outputting of said data packets in respective logical groups that represent an aggregate

packet from said non-synchronous compute nodes after said grouping criteria has been met

[column 3 «line 49» to column 4 «line 18» where : Mann's packet bundle is analogous to the

claimed aggregate packet. The packets are grouped based on session numbers].

7>   As to claims 5 and 9, they merely are directed towards an apparatus and computer

program product on a medium, respectively, that implement the steps of the method of claim

1. Therefore, claims 5 and 9 are rejected for at least the same reasons set forth for claim 1.

8>   Claims 2-4, 6-8, and 10-12 are rejected under 35 U.S.C §103(a) as being unpatentable

over Mann, in view of Turner et al, U.S Patent No. 6.907.041 ["Turner"].

9>   As to claim 2, Mann does disclose inserting data packets into said software container

but does not expressly disclose performing said insertion according to individual packet time

reference. In the same field of invention, Turner is directed towards a communications

network for resequencing packets using a packet time reference, aka a timestamp [column 3

«lines 31-47»]. Turner expressly discloses inserting said data packets into a software

container according to individual packet time reference [column 4 «line 65» to column 5 «line

7»].

It would have been obvious to one of ordinary skill in the art to incorporate

timestamps into Mann's insertion functionality. Use of timestamps enables the ability to better resequence packets into the correct order and to insure that they are transmitted in the correct order to the next destination in the network.

10> As to claim 3, Mann does disclose locating common groups of data packets within said software container, but does not disclose doing so based on individual packet time reference. Turner discloses locating common groups based on individual packet time reference [column 4 «lines 56-59» | column 5 «lines 9-26» where : Turner's merging of different groups based on their time stamps is analogous to the claimed functionality].

It would have been obvious to one of ordinary skill in the art to have modified Mann to include the function of grouping packets based on packet time reference. Turner discloses that the ability to group based on time stamps benefits a system by enabling resequencing of a multiplicity of packets into a sorted order [column 4 «lines 56-59» | column 5 «lines 14-18»].

11> As to claim 4, Mann discloses outputting logical group of said data packets in respective logical groups that represent time-synchronous packets from said non-synchronous compute nodes after said grouping criteria has been met [column 4 «lines 1-17 and 52-60» | column 5 «lines 18-28» | column 6 «lines 39-46» where : Mann discloses outputting a bundle of packets based on the packet's session number and sequence number within that particular session. Mann's packets are therefore synchronous based on their sequence and session numbers].

12>   As to claims 6 and 10, 7 and 11, and 8 and 12, they merely are directed towards an apparatus and computer program product on a medium, that implement the steps of the method of claims 2, 3, and 4 respectively. Therefore, claims 6 and 10, 7 and 11, and 8 and 12, are rejected for at least the same reasons set forth for claims 2, 3, and 4.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2152

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. C./
Primary Examiner, Art Unit 2152

/Bunjob Jaroenchonwanit/
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